

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/520,150
Applicant : Susanne Proesch et al
Filed : March 22, 2005
TC/A.U. : 1654
Examiner : Satyanarayan R. Gudibande

Docket No. : 2958-129
Customer No. : 6449
Confirmation No.: 5562

PETITION TO RECONSIDER EXAMINER'S REQUIREMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Dear Sir:

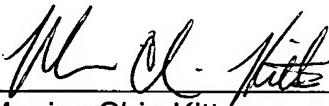
Pursuant to 37 C.F.R. §1.181(a)(1), Applicants hereby request that claims 9-20 submitted in the response dated February 7, 2006 be examined. In support of this petition, Applicants point out that the originally filed claims were directed to the use of a substance or composition for the preparation of a medicament for the treatment of an individual infected with a virus selected from the group comprising varicella zoster virus, human cytomegalovirus, HHV6 and 7, Epstein-Barr virus and HHV8. The claims were written as use claims because method of treatment claims are not permitted in Europe where the present application was filed as a PCT application. Applicants respectfully point out that since use claims are not permitted in the U.S., such claims are commonly rewritten as method of treatment claims. Since the originally filed claims state that the medicament is used for the treatment of individuals infected with the recited viruses, applicants

respectfully contend that claims 9-20 are directed to the elected subject matter and request that claims 9-20 be examined in the present application.

In addition, new claims 21-32 are directed to a method for preparing and administering the medicament according to the present invention. If claims 9-20 are not found to encompass the elected invention, applicants request that claims 21-32 be designated as encompassing the elected invention.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

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